REMARKS

This Amendment is responsive to the Final Office Action dated July 17, 2007. Applicant has amended claims 1, 6, 12, 16, and 21, and added claims 27 and 28. Claims 1-28 are pending upon entry of this Amendment.

Claim Rejection Under 35 U.S.C. § 103(a)

In the final Office Action, claims 1, 3, 4, 6, 7, 10-13, 15, 16, 18, 19, 21, 22, 24 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright et al. (U.S. Patent No. 6,416,857) in view of Shadle et al. (U.S. Patent No. 6,270,122). In addition, claims 2, 5, 8, 9, 14, 17, 20, 23 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright et al. in view of Shadle et al. and Mocilnikar et al. (U.S. Patent No. 5,346,259). Applicant respectfully traverses the rejection to the extent such rejections may be considered applicable to the claims as amended. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

For example, with reference to independent claim 1, the applied references lack any teaching that would have suggested a tamper indicating device including a backing, a flood coat defining a window, and a mask in partial or whole registration with the window in the flood coat, where when a peeling force is applied to the backing in a direction substantially away from the window, the backing fractures and the mask is at least partially physically separated from the window. Support for the amendment to claim 1 (as well as the other independent claims) is found throughout Applicant's originally-filed disclosure, including page 10, lines 26-27, page 21, lines 9-29, and FIG. 6.

As the Office Action recognized, Wright et al. fails to disclose a tamper indicating device that includes a flood coat defining a window and a mask in partial or whole registration with the window in the flood coat.[1] The Office Action looked to Shadle et al. to cure this deficiency in Wright et al. According to the Office Action, Shadle et al. teaches an irreversible display having a flood coat defining a window and a mask in partial or whole registration with the window "for

[1] Office Action at page 3.

the purpose of having a display that temporarily obscur[es] predetermined indicia from view."[2] The Office Action characterized the graphics layer 118 shown in FIG. 12 as a flood coat defining a window and a metal film 120 as a mask.[3]

Regardless of whether the graphics layer 118 of Shadle et al. is correctly characterized as a flood coat, an assertion with which Applicant does not agree, the metal film 120 is not a mask as recited by Applicant's claim 1. Applicant's independent claim 1 has been amended to clarify that a mask is at least partially physically separated from the window in the flood coat upon application of the peeling force in a direction substantially away from the window. As recognized by the Office Action, Shadle et al. does not disclose physically separating the metal film from the graphics layer[4], i.e., does not contemplate a mask that is configured to at least partially physically separate from the window.

While the metal film taught by Shadle et al. temporarily obscures indicia from view[5], Shadle et al. does not contemplate separation of the graphics layer and metal film. Instead, Shadle et al. discloses an irreversible display that remains in tact both before and after the device is manipulated to reveal information obscured by the metal film 120.[6] In fact, the Shadle device requires that the device remain in tact since metal film 120 must contact the clearing agent in order to reveal the indicia. In particular, Shadle et al. states that, "[c]ontact between the metal film 120 and the clearing agent 126 clears the metal film 120 . . . revealing the underlying graphics layer 128."[7] After contact with the clearing agent, the metal film becomes clear, thereby allowing the metal film to expose underlying indicia. Thus, the metal film of Shadle that becomes clear upon contact with a clearing agent cannot be a "mask" that is at least partially physically separated from a window in a flood coat upon application of a peeling force that also fractures a backing, as recited by Applicant's independent claim 1. A mask that is configured to at least partially physically separate from the window in the flood coat is completely different in

[2] *Id.*
[3] *Id.*
[4] Office Action at page 6.
[5] Shadle et al. at col. 1, ll. 41-45.
[6] *See, e.g.*, Shadle et al. at FIGS. 13 and 14.
[7] *Id.* at col. 7, ll. 60-63.

nature than the metal layer in Shadle et al., and provides a different function than the metal layer in Shadle et al.[8] On at least this basis, Shadle et al. cannot render claim 1 obvious.

One skilled in the art would not modify the Wright et al. device in view of Shadle et al. because Shadle et al. does not disclose a metal layer that physically separates from a window in a graphics layer 118. Rather, the metal film, and the ability of the metal film to contact the clearing agent, appears to be necessary for viewing the graphics layer 128. For example, in FIGS. 12 and 13 of Shadle et al., which the Office Action relies on, the metal film remains within a window in order to contact the clearing agent and expose the secured information.

Merely modifying the Wright et al. device in view of Shadle et al. to include the metal layer and graphics layer would not arrive at the tamper indicating device of claim 1. For example, independent claim 1 also specifies that the mask is at least partially separated from the window in the flood coat upon application of a peeling force in a direction substantially away from the window, where the backing of the tamper indicating device fractures upon application of the peeling force. Neither Wright et al. nor Shadle et al. disclose or suggest a device configuration in which a backing fractures and a mask at least partially physically separates from a window in a flood coat upon application of a peeling force.

The Wright et al. tamper indicating device requires activation in a substantially different way than the Shadle et al. irreversible display, and it is unclear how one skilled in the art would have combined the metal film 120 and graphics layer 118 with the Wright et al. device in order to arrive at Applicant's claimed invention. The Wright et al. tamper indicating device is activated by a force generated from attempting to remove the tamper indicating device from an article, which Wright et al. refers to as a "peel force."[9] On the other hand, the Shadle et al. device operates by displaying a graphics layer upon squeezing top and bottom substrates of an irreversible display together in order to move a metal film into contact with a clearing agent.[10] That is, the Shadle et al. device is activated by squeezing the metal layer toward the window in the graphics layer 118, i.e., substantially opposite that of the claimed requirement. If the same "squeezing" force were applied to the Wright et al. device, the tamper indicating device would not activate and no internal delamination would occur.

---

[8] *See KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. ___, 127 S. Ct. 1727, 1739 (2007).
[9] Col. 8, ll. 13-15.
[10] Col. 7, ll. 49-54; see also arrows 138 shown in FIG. 14.

Given the substantially different structure required for activation of the Wright et al. tamper indicating device and the Shadle et al. irreversible display, one skilled in the art would not have looked to combine Shadle et al. with Wright et al. Wright et al and Shadle et al. describe devices that are activated by substantially different types of "tampering." Wright et al. describes a tamper indicating device that indicates tampering attempts, e.g., attempts to remove the tamper indicating device from an article, through internal delamination.[11] The internal delamination occurs via a peeling force.[12] On the other hand, Shadle et al. describes an irreversible display that indicates when the display was squeezed, i.e., a force that moves a metal film into contact with a clearing agent.[13] Shadle et al. does not indicate that its display changes upon an attempt to remove the device from an article, i.e., upon application of a peeling force. Shadle et al. in no way contemplates incorporation of the metal film and the graphics layer into a device that is activated via a peel force.

The applied references also fail to disclose or suggest each and every element of independent claim 6 as amended. Independent claim 6 is directed to an article that includes an object having secured information and a mask that obscures the secured information until the mask is at least partially physically separated from the tamper indicating device by application of the peeling force substantially away from the object. As described above, the device taught by Shadle et al. operates on the principle that a thin metal film temporarily obscures predetermined indicia from view and subsequently reacts with a chemical to cause the metal film to clear and reveal the predetermined indicia.[14]

The entire premise of the Shadle et al. contradicts Applicant's independent claim 6, which requires a mask that obscures information until the mask is at least partially physically separated from the tamper indicating device, i.e., the mask obscures information the entire time the mask is applied to the device prior to removal. Regardless of whether the metal layer in Shadle et al. is opaque (prior to contacting the clearing agent) or in clear form (after contacting the clearing agent), the structure of the Shadle device does not teach or suggest a mask that obscures secured information until it is at least partially separated from the device.

---

[11] Wright et al. at col. 1, ll. 9-12 and col. 8, ll. 13-15.
[12] *Id.*
[13] Shadle et al. at col. 7, ll. 49-54 and FIG. 26.
[14] Shadle et al. at col. 1, ll. 42-50.

Independent claim 12 as amended recites an article including an object having secured information and a mask that obscures the secured information of the object until the mask is at least partially physically separated from the tamper indicating device by at least partially physically separating the first side of the backing from the second side of the backing. Thus, claim 12 clarifies that the mask obscures the secured information until the first side of the backing is at least partially physically separated from the second side of the backing, thereby at least partially separating the mask from the device. For at least the reasons discussed above with respect to claims 1 and 6, the applied references also fail to disclose or suggest each and every element of independent claim 12. Furthermore, Shadle et al. does not disclose a backing that includes a first side that is physically separable from a second side, much less a mask that is configured to separate from the second side of the backing by least partially physically separating the first side of the backing from the second side.

Independent claim 16 as amended recites a tamper indicating device including a flood coat defining a window and a mask in partial or whole registration with the window, where the tamper indicating device is configured to at least partially physically separate into a first portion comprising the mask and a second portion comprising the flood coat upon application of a peeling force. Similarly, independent claim 21 as amended recites an article including an object having secured information and a mask that obscures the secured information of the object until the mask is at least partially removed from the tamper indicating device, where the tamper indicating device is configured to at least partially physically separate into at least a first portion comprising the mask and a second portion attached to the object upon application of the peeling force substantially away from the object. For at least the reasons discussed above with respect to claims 1, 6, and 12, the applied references also fail to disclose or suggest each and every element of independent claims 16 and 21.

Applicant also notes that Wright et al. in view of Shadle et al. does not disclose or suggest a tamper indicating device that is configured to at least partially physically separate into different portions upon application of the peeling force, where one of the portions includes the mask and another portion is attached to the object. Again, it would contradict the established function of the metal layer in Shadle et al. to configure a mask to be at least physically separable from a window in a flood coat.

For at least these reasons, the Office Action fails to establish a prima facie case for non-patentability of Applicant's independent claims 1, 6, 12, 16, and 21 under 35 U.S.C. § 103(a). Claims 2-5 depend from claim 1, claims 7-11 depend from claim 6, claims 13-15 depend from claim 12, claims 17-20 depend from claim 16, and claims 22-26 depend from claim 21 and are allowable therewith. Reconsideration and withdrawal of the rejection of claims 1-26 under 35 U.S.C. § 103(a) is respectfully requested.

New Claims

Applicant has added claims 27 and 28 to the pending application. The applied references fail to disclose or suggest the inventions defined by Applicant's new claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed inventions. As one example, claim 27 depends from claim 1 and specifies that the peeling force is insufficient to separate the flood coat from the second side of the backing. The applied references fail to disclose or suggest a tamper indicating device in which a mask is at least partially physically separated from a flood coat upon application of a peeling force, but the flood coat is not separated from a second side of a backing. No new matter has been added by the new claims.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date: By:

October 17, 2007

SHUMAKER & SIEFFERT, P.A.
1625 Radio Drive, Suite 300
Woodbury, Minnesota 55125
Telephone: 651.735.1100
Facsimile: 651.735.1102

Name: Jessica H. Kwak
Reg. No.: 58,975